

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ANDREW WHALEN,

Plaintiff,

ORDER

01-CV-6492L

v.

J.P. MORGAN CHASE & CO.,

Defendant.

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I have received and reviewed the flurry of correspondence in this case concerning sealing and confidential documents.

The original Stipulation (Dkt. # 31) endorsed by me on December 18, 2002, provided that the Stipulation itself would be filed under seal, but I do not believe there was any other provision in that document for routinely sealing other documents that came after it.

There was, of course, an Agreed Protective Order (Dkt. # 39) filed April 28, 2003. There is a detailed procedure set forth in that document to protect “proprietary, personal, private” information (§ 1). That order is also not authority that every single document in the case must be filed under seal.


Sealing orders and protective orders are the exception not the norm. There is generally a presumption of openness as to court proceedings and filings. The Second Circuit has cautioned that

nbtrial courts should not too freely suppress documents otherwise available to the public. Generally, lawsuits are not prosecuted in secret.

I think the parties need to be attentive as to the purpose for the Agreed Protective Order. Only proprietary, personal and private information should be designated as confidential.

Unless the parties can agree, I believe the best course is to have plaintiff serve his response to the summary judgment motion on defendant, with a copy for the Court. This would be unredacted and not filed. Plaintiff may file a redacted copy at a later date. The Court will review its unredacted copy and if it appears that no confidential information is contained in the pleading, then I will direct that it be publicly filed as is.

IT IS SO ORDERED.

  
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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
February 14, 2007.